Elder v. *Wood*, 208 U. S. 226, 232; *Union Oil Company* v. *Smith*, 249 U. S. 337, 349; *Irwin* v. *Wright*, 258 U. S. 219, 231.[2] It is thus apparent that the mere fact that a property right is created by statute to fulfil a governmental purpose does not make it non-taxable when it is held in private ownership and exercised for private advantage. See *Susquehanna Power Co.* v. *State Tax Commission* (*No. 1*), 283 U. S. 291, 297.

We are of the opinion that no controlling distinction can be based, in the case of copyrights, upon the character of the right granted. The argument that it is in the nature of a franchise or privilege bestowed by the Government, is met by the fact that it is not a franchise or privilege to be exercised on behalf of the Government or in performing a function of the Government. The 'mining claim' above mentioned, or the possessory right to explore and work a mine under the applicable Federal laws and regulations, may also be regarded as a franchise or privilege, but the Court found the right to be none the less taxable, observing in *Forbes* v. *Gracey*, *supra*, that "those claims are the subject of bargain and sale and constitute very largely the wealth of the Pacific coast States". Copyright is a right exercised by the owner during the term at his pleasure and exclusively for his own profit and forms the basis for extensive and profitable business enterprises. The advantage to the public is gained merely from the carrying out of the general policy in making such grants and not from any direct interest which the Government has in the use of the property which is the subject of the grants. After the copyright has been granted the Government has no interest in any action under it save the general one that its laws shall be obeyed. Operations of the owner in multiplying copies, in sales, in per-

[2]Even the reservation to the United States, in its grant of property, of a right of user for particular governmental purposes does not necessarily withdraw the property granted from the taxing power of the State. Baltimore Shipbuilding Co. *v.* Baltimore, 195 U. S. 375. Property in private ownership is not rendered non-taxable by the mere fact that it is the property of an agent of the Government and is used in the conduct of the agent's operations and is necessary for the agency, when Congress has not provided for its exemption. Railroad Company *v.* Peniston, 18 Wall. 5, 33; Central Pacific Railroad *v.* California, 162 U. S. 91, 125; Gromer *v.* Standard Dredging Co., 224 U. S. 362, 371; Choctaw, Oklahoma & Gulf R. R. Co. *v.* Mackey, 256 U. S. 531, 537; Shaw v. Oil Corporation, 276 U. S. 575, 581.

formances or exhibitions, or in licensing others for such purposes, are manifestly not the operations of the Government. A tax upon the gains derived from such operations is not a tax upon the exertion of any governmental function.

In *Gillespie* v. *Oklahoma*, 257 U. S. 501, the question concerned income derived from leases of restricted Indian lands. The leases were deemed to be instrumentalities of the United States in carrying out its duties to the Indians, and the Court, speaking through Mr. Justice Holmes, concluded that the tax imposed by Oklahoma was "a direct hamper upon the effort of the United States to make the best terms that it can for its wards." *Id.*, p. 506. A similar result was reached in the recent ruling in relation to what was deemed to be the correlative case of leases by Oklahoma of lands held by the State for the support of its schools. *Burnet* v. *Coronado Oil & Gas Company*, decided April 11, 1932. These decisions are not controlling here. The nature and purpose of copyrights place them in a distinct category and we are unable to find any basis for the supposition that a nondiscriminatory tax on royalties hampers in the slightest degree the execution of the policy of the copyright statute.

We agree, however, with the contention that in this aspect royalties from copyrights stand in the same position as royalties from the use of patent rights, and what we have said as to the purposes of the Government in relation to copyrights applies as well, *mutatis mutandis*, to patents which are granted under the same constitutional authority to promote the progress of science and useful arts. The affirmance of the judgment in the instant case cannot be reconciled with the decision in *Long* v. *Rockwood*, 277 U. S. 142, upon which appellant relies, and in view of the conclusions now reached upon a reexamination of the question, that case is definitely overruled.

Judgment affirmed.

A true copy.

Test:

Clerk, Supreme Court, U. S.